



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 28.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.2381 of 2017

M.Subbulakshmi

..Petitioner

Vs

1.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

2.The Inspector of Police,
Rathapuram Police Station,
Rathapuram,
Tirunelveli District.

3.C.Murugesan

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 and 2 to grant police protection to the Petitioner and her house property in S.No.818(2) in Thanakkarkulam Village, Nakkaneri Kudiyiruppu, S.R.O.Radhapuram, Tirunelveli District on the basis of her representation, dated 7.2.2017 within the time stipulated by this Court.

For Petitioner :Mr.P.M.Vishnuvarthan

For Respondent-1 :Mr.B.Thanga Aravindh
Govt.Advocate(Crl.Side)

For Respondent-2 :Mr.N.Ramesh Arumugam

**ORDER**

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This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the respondents 1 and 2 to grant police protection to the Petitioner and her house property in S.No.818(2) in Thanakkarkulam Village, Nakkaneri Kudiyiruppu, S.R.O.Radhapuram, Tirunelveli District on the basis of her representation, dated 7.2.2017 within the time stipulated by this Court.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.Even today also, the learned counsel for the Petitioner seeks time and this Court is not inclined to grant further time,since it is adjourned from the year 2017. A counter affidavit has been filed by the second respondent.

4.The Petitioner is the owner of the land as referred to above by virtue of registered Settlement Deed, dated 3.4.2006 executed by her father Chelliah.The Petitioner's father purchased the said property measuring to an extent of 6 cents by way of registered sale deed, dated 7.10.1983 and the remaining three cents stands in the name of his legal representatives and her father died on 10.09.2012. While so, the third respondent, who is a stranger, tried to interfere with the possession and



enjoyment of the property. Hence the Petitioner filed a suit in O.S.No.28 of 2017 before the District Munsif Court, Valliyoor for declaration and injunction and the third respondent has not entered his appearance on the said suit. After receipt of summon, the third respondent along with his aid one Chinna Raja illegally entered into the Petitioner's house and damaged the property. The third respondent is threatening the Petitioner not to proceed with the civil suit. The third respondent has no right over the property. In these circumstances, the Petitioner submitted a complaint to the respondents 1 and 2 on 24.1.2017, seeking police protection as sought for herein. Since no action was taken, the Petitioner again sent a representation to the above said officials on 7.2.2017 seeking the same relief. Even thereafter, no action was taken and hence the Petitioner has filed this Writ Petition for the relief stated supra.

5. The learned counsel for the second respondent has filed a counter affidavit, in which, it has been stated that the Petitioner's representation has to be dismissed on the ground of suppression of material facts and that a civil suit is pending in respect of the subject matter and moreover, the Petitioner has not turned up for enquiry. She herself stated that there is a dispute regarding boundary of the properties between herself and the third respondent C. Murugesan and a civil suit is also pending in this regard. The third respondent was enquired on 8.2.2017 and in his written statement he has stated that since a civil suit pending,



he is ready to abide by the verdict of the same. Already the Petitioner's land was surveyed with the help of the police and doubting the same, the Petitioner has quarrelled with the Police, third respondent and surey officials. Since the Petitioner not turned up for enquiry, the Petitioner's enquiry was closed and she was advised to work out her remedy in the pending suit. The Honourable Supreme Court and various High Courts, in catena of judgments, already held that if there is any dispute regarding right, title, ownership and enjoyment of the property and when it is disputed by both sides, they have to approach the competent civil forum, for necessary relief in the manner known to law. The second respondent is ready to protect the interest of the Petitioner as well as the third respondent within the ambit of law and they are requested not to indulge in any criminal activities or otherwise, the Police will take necessary action against them and prayed for dismissal of the Writ Petition.

6. On going through the averments found in the Petition as well as the counter affidavit, it is clear that the Petitioner is owning three cents of land by way of settlement deed executed by her father and that her neighbour had interfered with the peaceful possession and enjoyment of the same by creating some problems. In this regard, a civil suit is filed by the Petitioner in O.S.No.28 of 2017 before the District Munsif Court, Valliyoor and the same is pending for disposal and both the parties have to abide by the outcome of the same. The Police also advised both the



parties not to create any law and order problem and to abide by the verdict of the Civil Suit. The Petitioner's representation is of the year 2017 and the same is closed by the authorities, as the matter is seized of by the Civil Court and both the parties have to approach the Civil Court for necessary relief. This Court is of the view that the Writ Petition and the representation is of the year 2017 and the Petitioner is taking adjournment by stating one reason or other from 2017 and even today also, the learned counsel seeks further time. In respect of the subject matter in the present Writ Petition, a civil suit is pending before the Civil Court and the Petitioner has to establish her right over the disputed property in the manner known to law and this Court cannot pass any order in the present Writ Petition, as the representation given in respect of police protection was already closed by the Police, advising them to approach the competent Civil Court. For the reasons stated above, this Court is not inclined to entertain the present Writ Petition and the same is liable to be dismissed.

7. Accordingly, the Writ Petition stands dismissed. No costs.

28.09.2022

Index : Yes/No

Internet: Yes/No

vsn

<https://www.mhc.tn.gov.in/judis>



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Tirunelveli District,
Tirunelveli.
2. The Inspector of Police,
Rathapuram Police Station,
Rathapuram,
Tirunelveli District.



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V.BHAVANI SUBBAROYAN,J
vsn

ORDER MADE IN

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